

Docket No.: 23-0475
Meeting: 1/3/24
Deadline: 5/16/24

MEMORANDUM

TO: The Commission

FROM: Leslie Haynes and Nicole Roth, Administrative Law Judges

DATE: December 15, 2023

SUBJECT: Wolf Carbon Solutions US LLC

Application pursuant to the Carbon Dioxide Transportation and Sequestration Act (220 ILCS 75/1 *et seq.*) for a Certificate of Authority to Construct and Operate a Carbon Dioxide Pipeline and when Necessary to take Interests in Property as Provided by the Law of Eminent Domain.

RECOMMENDATION: Grant Motion to Withdraw.

I. PROCEDURAL HISTORY

On June 16, 2023, Wolf Carbon Solutions US LLC (“WCSUS”) filed with the Illinois Commerce Commission (“Commission”) an Application for a Certificate of Authority to Construct and Operate a Carbon Dioxide Pipeline, pursuant to the Carbon Dioxide Transportation and Sequestration Act. 220 ILCS 75/1 *et seq.*

Direct testimony has been filed by WCSUS, Staff of the Commission (“Staff”), and various intervenors. The evidentiary hearings were scheduled for January 22-26, 2024. On November 20, 2023, WCSUS filed a Motion to Withdraw Application without Prejudice (“Motion to Withdraw”) requesting leave to withdraw its Application without prejudice and to conclude the proceedings in the docket. The Motion to Withdraw also asks the Administrative Law Judges (“ALJs”) to immediately suspend the procedural schedule pending the resolution of such motion. The ALJs cancelled the evidentiary hearing and suspended the procedural schedule on November 21, 2023. Staff filed a Response to the Motion to Withdraw on December 4, 2023. No replies were filed.

II. ISSUE

A. Motion to Withdraw

In its Motion to Withdraw, WCSUS seeks voluntary dismissal of its Application. WCSUS notes that several parties have moved to dismiss the Application on the grounds that WCSUS’s identification of the “notification corridor” of parcels within one-half mile on either side of the proposed centerline is improper. Additionally, Staff testimony criticized WCSUS’s lack of agreement with a source that will result in the reduction of carbon dioxide emissions from the source, as required by 220 ILCS 75/20. Thus, WCSUS requests that the ALJs suspend the procedural schedule. WCSUS believes that its

current Application is sufficient and has objected to the parties' motions to dismiss. However, WCSUS also believes that through a new application, it can address and moot many, if not all, of the concerns expressed. Accordingly, WCSUS requests leave to voluntarily withdraw its Application without prejudice and with leave to file a new application, and requests an order from the Commission granting leave to voluntarily withdraw its application without prejudice, and concluding this docket.

Staff indicates that it does not object to WCSUS's Motion to Withdraw but notes the significant financial and administrative impact of litigating this docket on the Commission, Staff, landowners, and other parties. Staff notes that litigating these same issues in a subsequent docket or dockets will be similarly taxing on the limited resources of concerned parties. Staff further notes that the federal Pipeline and Hazardous Materials Safety Administration ("PHMSA") will soon be undertaking a rulemaking to update and strengthen its regulations pertaining to carbon dioxide pipelines, which could have a significant impact on WCSUS's proposed pipeline project. Accordingly, Staff encourages WCSUS to refrain from filing another application until after PHMSA publishes its final rule updating standards for carbon dioxide pipelines, and until such time that WCSUS is able to adequately address all of the concerns detailed in Staff's direct testimony.

III. CONCLUSION

The ALJs agree with Staff and recommend that the Commission grant the Motion to Withdraw.

LH/NCR:jt